

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-9 and 20 are pending in the present amendment, Claims 1 and 20 having been amended and Claims 10-19 having been canceled without prejudice or disclaimer. Claims 1 and 20 are amended to more clearly describe and distinctly claim the subject matter Applicant regards as the invention. Support for amendments to Claims 1 and 20 is found in Fig. 1, for example, and thus no new matter is added.

In the outstanding Office Action, Claims 1-9 and 20 were rejected under 35 U.S.C. §102(e) as anticipated by Davis et al. (U.S. Patent No. 6,282,522, hereinafter Davis).

With respect to the rejection of Claim 1 as anticipated by Davis, Applicant respectfully traverses the rejection because Davis does not teach or suggest every element of amended Claim 1.

In a non-limiting embodiment of the claimed invention, a global shopping cart function is provided that enables a collective commitment for a plurality of purchases made at a plurality of different electronic shops. To realize the global shopping cart function, a management unit is configured to unify transaction information for each transaction currently in progress between some electronic shops and one user, and is configured to be independent of some electronic shops.

Amended Claim 1 is directed to a transaction management device that includes:

a management unit configured to manage transaction information for each transaction currently in progress between some electronic shops among the plurality of electronic shops and one user among the plurality of users.

Indeed, Davis does not teach or suggest this element of amended Claim 1.

On the contrary, the system described in Davis focuses on a local shopping cart function that enables a collective commitment for a plurality of purchases made at each single

electronic shop (merchant server 208) to take part. Although the user is directed to actuate a purchase completion in step 510, shown in Fig. 10 of Davis, step 510 is executed for each single merchant. Davis discloses that each single electronic shop separately proceeds with step 510 in response to step 508, in which the user selects items to purchase.¹ Davis does not teach or suggest a collective commitment for a plurality of purchases made at a plurality of different electronic shops. Thus, Davis does not teach or suggest the claimed “a management unit configured to manage transaction information for each transaction currently in progress between some electronic shops among the plurality of electronic shops and one user among the plurality of users.”

Amended Claim 1 also recites “...a third information for identifying said some electronic shops....” As discussed above, Davis is directed to a local shopping cart function and only has to identify a single electronic shop at a time.² Thus, Davis does not teach or suggest a management unit configured to manage transaction information that includes “a third information for identifying said some electronic shops.”

In addition, the Office Action states that it is inherent that Davis discloses the claimed “second information for identifying said one user.” Applicant respectfully submits that the assertion of inherency is insufficient to show that Davis inherently teaches the claimed “second information for identifying said one user” because the rejection fails to show “that the alleged inherent characteristic necessarily flows from the teachings of the applied prior art”³ “To establish inherency, the extrinsic evidence ‘must make clear that the missing

¹ Davis, col. 14, lines 44-52.

² Davis, col. 15, line 43.

³ See MPEP 2112 (emphasis in original) (citation omitted). See also same section stating that “[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic,” (emphasis in original). See also In re Robertson, 49 USPQ2d 1949, 1951 (Fed. Cir. 1999) (“[t]o establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill,” citing Continental Can Co. v. Monsanto Co., 948 F2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991); and “[i]nherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient,” Id. at 1269 (citation omitted)).

descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.”⁴ Because the Official Action provides no explanation of why Applicants’ claimed features are inherent, Applicants submit the rejection is improper.⁵

Therefore, in view of the above-noted distinctions, Applicant respectfully submits that Claim 1 (and dependent Claims 2-9) patentably distinguish over Davis. In addition, Applicant respectfully submits that Claim 20 patentably distinguishes over Davis for at least the reasons given for Claim 1.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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⁴ *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

⁵ MPEP § 2112, IV “Examiner must provide rationale or evidence tending to show inherency.”